

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA HWCA 01/02-1006
)	
)	
WIT Sales and Refining)	CONSENT ORDER
538 Phelan Avenue)	
San Jose, CA 95112)	Health and Safety Code
ID No. CAD 980 888 598)	Section 25187
)	
Respondent.)	
_____)	

The State Department of Toxic Substances Control (Department) and WIT Sales and Refining (Respondent) enter into this Consent Order and agree as follows:

1. Respondent treats and stores hazardous waste at 538 Phelan Avenue, San Jose, California (Site).

2. The Department inspected the Site on October 29, 2001.

3. The Department alleges the following violations:

3.1.The Respondent violated Health and Safety Code, section 25202, subdivision (a), California Code of Regulations, title 22, section 66270.30 subdivision (a) and Hazardous Waste Permit sections I-6(b), II-1 and III, in that on or about October 29, 2001, Respondent accepted solder dross for storage prior to re-manifesting it to another permitted treatment, storage and/or disposal facility.

3.2.The Respondent violated Health and Safety Code section 25202, subdivision (a), California Code of Regulations, title 22, section 66270.30 subdivision (a) and Hazardous Waste

Facility Permit sections I-6(b), II-1 and II-4, in that on or about October 29, 2001, Respondent stored hazardous waste in excess of one calendar year from the time such waste was first accepted.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code (HSC) section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. By entering into this Consent Order, the Respondent does not admit any of the violations alleged above.

SCHEDULE FOR COMPLIANCE

10. The violations have been corrected.

PAYMENTS

11. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department its first payment of \$1,000. Three additional payments will be required over the next 3 months. The total settlement of this case is \$4,000 of which all is reimbursement of the Department's costs.

Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
400 P Street, 4th Floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Charlene Williams, Chief
Northern California Branch
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Building F, Suite 200
Berkeley, California 94710

To: Mike Shepard
Office of Legal Counsel
Department of Toxic Substances Control
400 P Street, 4th Floor
P. O. Box 806
Sacramento, California 95812-0806

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to HSC § 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such

failure, as provided by HSC section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Original signed by

Dated: 7/9/02

Fred Rex
Signature of Respondent's
Representative

Dated: 7/9/02

Fred Rex
Typed or Printed Name and Title of
Respondent's Representative

Dated: 7/16/02

Original signed by
Douglas R. Hohman
Douglas Hohman
Senior Hazardous Substances
Scientist
Department of Toxic Substances
Control